



William A. Garrett
Senior Counsel
Phone: (614) 248-5776
Fax: (614) 248-9553
william_a_garrett@bankone.com

Legal Department
OH1-0152
1111 Polaris Parkway
Columbus, OH 43271-0152

July 23, 2004

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
Office of the Secretary
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Via e-mail (regs.comments@federalreserve.gov)

Re: Notice of Study and Request for Information; **Docket No. OP-1196**

Dear Ms. Johnson:

The Federal Reserve Board ("FRB") has published a request for comments and views on existing disclosure requirements for fees imposed by card issuers for debit card purchases. In particular, the FRB seeks comment on whether these laws and regulations adequately and effectively make consumers aware of the imposition of debit card transaction fees by their financial institution, or whether additional disclosures would be beneficial. JPMorgan Chase & Co., on behalf of its subsidiary banks JPMorgan Chase Bank, Bank One, NA, Ohio, and Bank One, NA, Chicago (collectively, the "Banks") appreciates the opportunity to submit this response.

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Although the Banks currently do not impose unique "PIN-use POS fees," we believe that the current regulatory structure (specifically Federal Reserve Regulation E (12 CFR Part 205) and Regulation DD (12 CFR Part 230)) is adequate to make consumers aware of the imposition of such fees at the point of sale. The initial disclosures provided to customers at account opening set forth the transaction fee structure applicable for the deposit accounts offered, and periodic statements clearly disclose those transaction fees incurred during the applicable account cycle as required by these existing regulations.

In addition, JPMorgan Chase & Co. is not aware of any problems with the manner in which such disclosures are currently made, or the awareness of this fee or similar fees by customers. As noted above, the Banks have no direct experience with these fees since, at this time, they do not impose unique PIN-use POS fees. However, we believe that PIN-use POS fees are analogous to foreign ATM fees (fees imposed by the issuing bank when a debit or ATM cardholder initiates a transaction at an ATM that is not owned or controlled by the bank), which are imposed by the Banks, since they are both card-based fees charged when a cardholder initiates certain electronic

funds transfers at third-party locations. In this regard, the Banks have not received complaints that would suggest customers generally are unaware of these foreign ATM fees. We also believe that this is not atypical in the industry. Since only a few banks charge PIN-use POS fees today, using industry experience with foreign ATM fees is appropriate, not only because of its similarity with PIN-use fees but because a significant majority of financial institutions in the United States impose such ATM fees.

Therefore, as current Federal regulations require the same method of disclosure for PIN-use POS fees as with foreign ATM Fees, we do not share the concern expressed by some that consumers are unaware, or are not adequately informed, that their bank imposes PIN-use POS fees. We recognize that the industry has not historically charged PIN-use POS fees. However, we believe that the current regulations are adequate for informing customers about the imposition and amount of such PIN-use fees based upon industry experience with foreign ATM fees, and do not believe that new fees require greater prominence in disclosures to ensure sufficient awareness.

In addition, as with foreign ATM fees, current technologies and processing capabilities limit a card issuer's ability to disclose their specific fees, including PIN-use POS fees, at ATMs or at merchant POS terminals owned or controlled by others that accept debit cards. This is similar to the current lack of capabilities of merchants to display unique credit card issuer pricing at the point of sale. This process is very different from surcharge fees imposed at ATMs, in which the ATM owner, and not the card issuer, provides disclosures on the ATM itself and its screens and an opportunity to opt out of a transaction that would result in a surcharge fee imposed by the ATM owner.

In fact, even if the technology were available to disclose PIN-use fees on merchant POS terminals, which are significantly smaller than ATM screens, any such disclosure would need to include those conditions imposed by the card issuer that are applicable to the fee. Unlike surcharge fees in which the ATM owner imposes a uniform fee to all its non-customers without condition, a card issuer may have very complicated conditions under which a PIN-use fee may be imposed. These conditions might include that the fee will not be imposed if the customer maintains a sufficient ledger balance in their account during the entire account statement period. Such a disclosure would be imperative for the accurate representation of the fee identified on the screen, but might not easily fit within a POS terminal screen. Of course, if merchants impose their own uniform fees to accept PIN-use debit card transactions, then we would strongly recommend that merchants be obligated to clearly and conspicuously display such fees, using the requirements to disclose surcharge fees at ATMs as a guide.

In conclusion, we believe that current disclosure requirements imposed on card issuers are sufficient and do not require further modification to ensure that customers clearly understand the fees, including PIN-use POS fees, imposed by these issuers. JPMorgan Chase & Co. appreciates the opportunity to comment on this subject and would be pleased to discuss any of the points raised in this letter in more detail. Should you have any questions, please contact William A. Garrett at (614) 248-5776.

Sincerely,

/s/ William A. Garrett

William A. Garrett
Senior Counsel